

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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GARY L. GREENFIELD, HARVEY A. KNELL,  
DAVID O. PHILIPS, and JAMES M. RETTERER

Junior Party  
(Patent No. 5,687,799),

v.

ROBERT JOHN BROCKWAY

Senior Party  
(Application No. 09/599,679).

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Patent Interference No. 105,806 (SCM)  
(Technology Center 3600)

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**DECLARATION – Bd. R. 203(b)<sup>1</sup>**

**Part A. Declaration of Interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application, patent, count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

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<sup>1</sup> “Bd. R. x” may be used as shorthand for “37 C.F.R. § 41.x”. 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1       **Part B. Judge managing the interference**

2       Administrative Patent Judge Sally C. Medley has been designated to manage  
3 the interference. Bd. R. 104(a).

4       **Part C. Standing order**

5       A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
6 DECLARATION. The STANDING ORDER applies to this interference. The  
7 STANDING ORDER has recently been updated. An Executive Summary of  
8 significant changes is provided.

9       **Part D. Initial conference call**

10       A telephone conference call to discuss the interference is set for **1:30 p.m.**  
11 **on 19 July 2011** (the Board will initiate the call).

12       No later than **four business days** prior to the conference call, each party  
13 shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120; Bd.R. 204;  
14 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

15       A sample schedule for taking action during the motion phase appears as  
16 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the  
17 schedule prior to the conference call and to agree on dates for taking action. A  
18 typical motion period lasts approximately eight (8) months. Counsel should be  
19 prepared to justify any request for a shorter or longer period.

1           **Part E. Identification and order of the parties**

2                               Junior Party

3           Named Inventors:       GARY L. GREENFIELD, Palos Heights, IL  
4                                       HARVEY A. KNELL, Yorkville, IL  
5                                       DAVID O. PHILIPS, Metamora, IL  
6                                       JAMES M. RETTERER, Naperville, IL  
7

8           Involved Application:   Patent 5,687,799 issued 18 November 1997, based  
9                                       on application 08/700,598, filed 12 August 1996

10          Title:                   Wheel assembly for a compacting machine

11          Assignee:               Caterpillar Inc.

12                               Senior Party

13          Named Inventors:       ROBERT JOHN BROCKWAY, Plymouth, WI  
14

15          Involved Patent        Application No. 09/599,679, filed 22 June 2000

16          Title:                   Compactor wheel axle guard system

17          Assignee:               Bank First National

18          The senior party is assigned exhibit numbers 1001-1999. The junior party is  
19 assigned exhibit numbers 2001-2999. Bd.R. 154(c)(1); SO ¶ 154.2.1. The senior  
20 party is responsible for initiating settlement discussions. SO ¶ 126.1.

21           **Part F. Count and claims of the parties**

22                               Count 1

23                               Claim 1 of Greenfield's Patent

24                               or

25                               Claim 23 of Brockway's Application  
26  
27

1 The claims of the parties are:

2 Greenfield: 1-10

3 Brockway: 1-8, 11, 12, 14-20, 23, 25, 29, and 33-36

4 The claims of the parties which correspond to Count 1 are:

5 Greenfield: 1, 5 and 6

6 Brockway: 23, 25 and 29

7 The claims of the parties which do not correspond to Count 1 are:

8 Greenfield: 2-4 and 7-10

9 Brockway: 1-8, 11, 12, 14-20 and 33-36

10 The parties are accorded the following benefit for Count 1:

11 Greenfield: none

12 Brockway: application 08/732,901, filed 17 October 1996, now  
13 patent 5,769,507, issued 23 June 1998

14  
15 application 60/005,639, filed 19 October 1995  
16

17 Count 2

18 Claim 7 of Greenfield's Patent

19 or

20 Claim 33 of Brockway's Application

21 The claims of the parties are:

22 Greenfield: 1-10

23 Brockway: 1-8, 11, 12, 14-20, 23, 25, 29, and 33-36

24 The claims of the parties which correspond to Count 2 are:

25 Greenfield: 7-10

26 Brockway: 6-8, 14, 15, 20, 33 and 34  
27  
28

1 The claims of the parties which do not correspond to Count 2 are:

2 Greenfield: 1-6

3 Brockway: 1-5, 11, 12, 16-19, 23, 25, 29, 35 and 36

4 The claims of the parties which do not correspond to either Count 1 or  
5 Count 2 are:

6 Greenfield: 2-4

7 Brockway: 1-5, 11, 12, 16-19, 35 and 36

8 The parties are accorded the following benefit for Count 2:

9 Greenfield: none

10 Brockway: application 08/732,901, filed 17 October 1996, now  
11 patent 5,769,507, issued 23 June 1998

12  
13 application 60/005,639, filed 19 October 1995  
14

1           **Part G. Heading to be used on papers**

2           The following heading must be used on all papers filed in this interference,  
3 see SO ¶ 106.1.1:

4                   UNITED STATES PATENT AND TRADEMARK OFFICE  
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6                                 \_\_\_\_\_  
7                   BEFORE THE BOARD OF PATENT APPEALS  
8                                 AND INTERFERENCES  
9                                 \_\_\_\_\_

10                   GARY L. **GREENFIELD**, HARVEY A. KNELL,  
11                   DAVID O. PHILIPS, and JAMES M. RETTERER  
12                                 Junior Party  
13                                 (Patent No. 5,687,799),  
14                                 v.

15                                 ROBERT JOHN **BROCKWAY**  
16                                 Senior Party  
17                                 (Application No. 09/599,679).  
18                                 \_\_\_\_\_

19                                 Patent Interference No. 105,806 (SCM)  
20                                 (Technology Center 3600)  
21                                 \_\_\_\_\_

22           **Part H. Order form for requesting file copies**

23           When requesting copies of files, use of SO Form 4 will greatly expedite  
24 processing of the request. Please attach a copy of Parts E and F of this  
25 DECLARATION with a hand-drawn circle around the patents and applications for  
26 which a copy of a file wrapper is requested.

27   /Sally C. Medley/  
28   Administrative Patent Judge  
29

1 Enc:

2 Copy of STANDING ORDER (March 2011)  
3 Copy of Executive Summary of STANDING ORDER  
4 Copy of claims of Application 09/599,679  
5 Copy of Patent 5,769,507  
6 Copy of Patent 5,687,799  
7 Copy of Examiner's write-up

8

9 cc (via overnight delivery):

10 Attorney for Greenfield:

11 MICHAEL D. BRAUNSTEIN  
12 CATERPILLAR INC  
13 PATENT DEPARTMENT AB6490  
14 100 N E ADAMS STREET  
15 PEORIA IL 61629-6490  
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